

**CORBELLO v. DEVITO**  
**CASE NO.: 2:08-cv-00867-RCJ-PAL**

**EXHIBIT 1 TO PLAINTIFF'S MOTION TO COMPEL RE: WRITTEN DISCOVERY  
TO DODGER THEATRICALS LTD AND JB VIVA VEGAS LP  
INJUNCTIVE RELIEF**

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TO DODGER THEATRICALS LTD AND JB VIVA VEGAS LP**

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DONNA CORBELLO, an individual,

Plaintiff,

vs.

THOMAS GAETANO DEVITO, an  
individual, *et al.*,

Defendants.

Case No. 2:08-cv-00867-RCJ-PAL

**DECLARATION OF ROBERT H.  
MCKIRGAN UNDER PENALTY OF  
PERJURY**

1. My name is Robert H. McKirgan. I am an attorney with the law firm of Lewis and Roca LLP and am licensed to practice law in Arizona and am admitted pro hac vice in this matter. I am one of the lawyers for the Plaintiff Donna Corbello.

1           2.     I have had numerous discussions with defense counsel regarding various  
2 discovery issues in this case and, particularly, with the matters raised in the Motion to  
3 Compel Re: Written Discovery to Dodger Theatricals Ltd. and JB Viva Vegas LP (the  
4 “Dodger Motion”). Those discussions have been primarily with David Korzenik, counsel  
5 for the New Defendants. Some of these discussions have included my co-counsel, Greg  
6 Guillot.

7           3.     Besides telephone calls, I participated in one in person meeting in Los  
8 Angeles, California per the Court’s order that counsel meet and confer regarding pending  
9 discovery matters. I have also had a number of email exchanges with Mr. Korzenik as  
10 well as written correspondence.

11          4.     At the last status conference on November 9, 2010, I told the Court that the  
12 parties were at an impasse regarding a number of discovery issues and Mr. Korzenik  
13 concurred.

14          5.     Despite my good faith efforts, I have been unable to resolve the matters  
15 discussed in the Dodger Motion. It is my belief and assertion that many documents that  
16 are important to Plaintiff’s case (as discussed in the Dodger Motion) remain unproduced.  
17 Based on my discussions with opposing counsel and a review of their responses to  
18 discovery requests, Dodger and JB Vegas agreed to produce many of the documents at  
19 issue in the Dodger Motion. To date, those documents have not been produced. As to  
20 other documents discussed in the Dodger Motion, the defendants have refused to produce  
21 despite my efforts to explain the relevance, discoverability and importance of the  
22 documents at issue.

23          6.     The assertions in the Dodger Motion that certain documents and category of  
24 documents have not been produced is based upon my personal review of portions of the  
25 defendants’ document production (that related to the Jersey Boys ownership structure and  
26 financial information) and Mr. Guillot’s review of all of the documents produced by the  
27 defendants.  
28

Signed at Phoenix, Arizona on the 20th day of December, 2010.

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